

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

2014 NOV 20 P 3 04

MARGARITA I. BOYER, Individually and as the
Executor of the Estate of Kenneth R. Wilson,

Plaintiff,

v.

ADMINISTRATOR – BENEFITS,
ExxonMobil Corporation,

Serve: Corporation Service Company, R.A.
Bank of America Center
1111 East Main Street, 16th Floor
Richmond, Virginia 23219

and

SAVINGS PLAN ADMINSTRATOR, ExxonMobil
Corporation,

Serve: Corporation Service Company, R.A.
Bank of America Center
1111 East Main Street, 16th Floor
Richmond, Virginia 23219

Defendants.

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

Case No.: 14CV1587
LMB/TCB

COMPLAINT

COMES NOW Margarita I. Boyer, individually and as Executor of the Estate of Kenneth R. Wilson, by counsel, and for her Complaint against the Administrator-Benefits, ExxonMobil Corporation, and the Savings Plan Administrator, ExxonMobil Corporation states and alleges as follows:

I. JURISDICTION, VENUE AND PARTIES

1. This matter arises from a claim related to the ExxonMobil Savings Plan, which is governed by the Employee Retirement Income Security Act (“ERISA”), making the jurisdiction of this Court proper under 28 U.S.C. § 1331.

2. A substantial portion of the events giving rise to this action occurred in Fairfax County, Virginia, therefore venue is proper in the Eastern District of Virginia pursuant to 28 U.S.C. § 1391(b).

3. Plaintiff Margarita I. Boyer, Executor of the Estate of Kenneth R. Wilson (“Ms. Boyer”), is a resident of the Commonwealth of Virginia.

4. The decedent, Kenneth R. Wilson (“Mr. Wilson”), was a resident of Virginia prior to his death, and his Estate was opened for probate by Ms. Boyer in the Circuit Court of Fairfax County, Virginia.

5. Defendant Administrator-Benefits (“Plan Administrator”) is the Manager-Global Benefits Design of ExxonMobil Corporation (“ExxonMobil”); the Plan Administrator handles the administration of the Savings Plan offered by ExxonMobil, a corporation conducting business in several states across the United States, including the Commonwealth of Virginia.

6. Defendant Savings Plan Administrator (“SPA”) was designated by the Plan Administrator to handle certain administrative matters, including conducting initial claims reviews, for the Savings Plan offered by ExxonMobil.

II. FACTS

7. Mr. Wilson was a participant in the ExxonMobil Savings Plan, which is governed by ERISA.

8. On February 27, 2006, Mr. Wilson submitted a Special Beneficiary Designation form designating Ms. Boyer as his sole beneficiary. On March 10, 2006, ExxonMobil issued a “Beneficiary Designation Denial” rejecting that form.

9. The reason stated for the rejection is that Mr. Wilson “did not indicate in (Section 2) the plan(s) for which [he wanted] this Special Beneficiary Designation to apply.”

10. On March 1, 2007, Mr. Wilson filled out a new Beneficiary Designation providing that Ms. Boyer was the sole beneficiary of all of Mr. Wilson's "Employee Benefits Plans."

11. Mr. Wilson passed away in November 2013.

12. On March 18, 2014, on behalf of Ms. Boyer, undersigned counsel sent a letter to Lisa Stancil, who had been designated as Ms. Boyer's Beneficiary Support Representative. The letter is attached as Exhibit A¹.

13. The letter stated that counsel had been retained to represent Ms. Boyer and explained why Ms. Boyer was entitled to receive the ERISA-governed benefits from Mr. Wilson's ExxonMobil Savings Plan.

14. In addition, the letter requested copies of the following documents:

- (a) The full Plan Documents or, at the very least, any excerpts addressing the requirements for designating a beneficiary;
- (b) All beneficiary designations ExxonMobil has on file for Mr. Wilson; and
- (c) All correspondence to and from Mr. Wilson related to such beneficiary designations.

15. After receiving no response, undersigned counsel sent a second letter to Lisa Stancil on June 18, 2014 (attached as Exhibit B). This letter again requested the documents named above.

16. Counsel also requested these documents in numerous phone conversations with Lisa Stancil.

17. ExxonMobil finally issued an Adverse Benefit Determination dated August 1, 2014, which was sent through Lisa Stancil (attached as Exhibit C). At that time, the Plan Administrator requested a release of information form from Ms. Boyer and Letters Testamentary

¹ Please note that, due to volume, any attachments to the correspondence affixed as exhibits hereto have been omitted.

showing her status as Executor as preconditions for receiving the documents which had been requested. ExxonMobil did not at any previous time request those documents.

18. Ms. Boyer was also informed at that time that she needed to write the Plan Administrator, as opposed to her Beneficiary Support Representative, to obtain the Plan Documents. ExxonMobil did not at any previous time give Ms. Boyer that information.

19. In her letter dated August 13, 2014 (attached as Exhibit D), which is addressed to both Lisa Stancil and the Plan Administrator, Ms. Boyer submitted the requested release of information form requesting the full Plan Documents, and she provided the requested certificate of qualification as Executor of Mr. Wilson's Estate in order to request all beneficiary designations on file and any correspondence to and from Mr. Wilson related to his beneficiary designations.

20. Counsel sent follow-up requests for all of these documents to both Lisa Stancil and the Plan Administrator on August 25, 2014; September 4, 2014; and September 16, 2014. These follow up letters are attached as Exhibits E, F, and G.

21. In response to these letters, Lisa Stancil provided the beneficiary designations on file under cover of a letter dated September 22, 2014 (attached as Exhibit H). In her letter, Ms. Stancil advised that her office could not produce the Plan Documents, and that these required a request to the Plan Administrator. Her letter also advised that her office could not provide the requested correspondence.

22. With no response from the Plan Administrator, Ms. Boyer was forced to submit her appeal of the Adverse Benefit Determination without reference to the ExxonMobil full Plan Documents. The appeal is attached as Exhibit I.

23. The appeal, which was submitted on September 29, 2014 to both the Plan Administrator and Lisa Stancil, again requested the full Plan Documents and also requested an extension for the appeal until they had been received.

24. To date, Ms. Boyer has received no response to the September 29, 2014 letter.

25. On November 5, 2014, counsel sent another letter to both the Plan Administrator and Lisa Stancil, again requesting the full Plan Documents. This letter, attached as Exhibit J, informed the Plan Administrator that he was in violation of 29 U.S.C. § 1132(c)(1) for failing to provide the Plan Documents within 30 days of receiving Ms. Boyer's request.

26. As of this date, Ms. Boyer has not received any Plan Documents from ExxonMobil.

Count I
(Violation of 29 U.S.C. § 1132(c)(1))

27. Plaintiff incorporates the allegations contained in Paragraphs 1-26 as if set forth fully herein.

28. Plaintiff requested the Plan Documents directly from the ExxonMobil Plan Administrator over 30 days ago.

29. In contravention of 29 U.S.C. § 1132(c)(1), the ExxonMobil Plan Administrator and/or the SPA as the Plan Administrator's designee has refused to comply with Plaintiff's requests for Plan Documents.

30. The ExxonMobil Plan Administrator and/or the SPA as the Plan Administrator's designee is personally liable to Ms. Boyer for this refusal.

WHEREFORE, Plaintiff Margarita I. Boyer, in her individual capacity and as the Executor of the Estate of Kenneth R. Wilson, respectfully requests that this Court find the ExxonMobil Plan Administrator and/or the SPA as the Plan Administrator's designee in violation of

29 U.S.C. § 1132, award damages of \$100 a day from the date of the refusal to comply with Ms. Boyer's request, and award such other relief as the Court deems proper.

Dated: November 20, 2014

Respectfully submitted,

MARGARITA I. BOYER,
AS EXECUTOR OF THE ESTATE OF
KENNETH R. WILSON, AND IN HER
INDIVIDUAL CAPACITY,
By Counsel

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